

LETTERS

SMOKE-FREE LEGISLATION IN APPALACHIAN COUNTIES

In the article “Clean Indoor Air Ordinance Coverage in the Appalachian Region of the United States,” Ferketich et al. recommend that clean indoor air laws in certain Appalachian states “should be statewide, because, clearly, leaving the effort to local communities does not result in a large number of strong local CIA ordinances.”^{1(p1317)} The authors make a monumental leap in their conclusion that efforts to pass strong statewide smoke-free laws should take priority over local laws in Appalachian states. Their study does not analyze the effectiveness of statewide laws; rather, it only reviews the existence and strength of municipal smoke-free ordinances in six selected Appalachian states.

In drawing this conclusion, Ferketich et al. do not consider the many political, societal, and contextual factors affecting tobacco control policy in Appalachia and the tobacco-growing states.^{2–5} Nor do the authors consider the risks associated with enacting smoke-free legislation before there is capacity at the local level for adequate implementation and enforcement.^{6,7} Only three of the 13 Appalachian states have enacted comprehensive smoke-free workplace legislation, and they are all located in northern, nontobacco growing states.⁸ Further, Georgia,

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Mothers participate in a regular physical exercise and social support program titled *Caminando Con Fe (Walking With Faith)* in a child-friendly place at The Most Precious Blood Church in Chula Vista. The group partnered with the Healthy Eating, Active Communities program to refurbish a nearby park for community use. Photo by Tim Wagner for Partnership for Public's Health. Available at <http://www.twagnerimages.com>. Printed with permission.

which has a weak state law without explicit preemption, had very few municipal laws, indicating that local officials in Georgia may have lacked the political will to enact stronger local laws, resulting in implicit preemption.⁹ The fact that Appalachia is plagued by low socioeconomic status and high unemployment puts these states at risk for enacting weak, preemptive statewide smoke-free legislation, which their study findings support.

The observation that so few Appalachian communities have comprehensive state or municipal smoke-free laws and regulations is not surprising given that these communities are disproportionately affected by high smoking rates, weak tobacco control laws, and lack of funding for comprehensive tobacco control.^{2,10} Their study design focused solely on the most affected Appalachian communities, further underscoring the disparities that exist. The authors should have concluded that a crucial first step in smoke-free policy development is to

foster capacity and demand at the local level for strong smoke-free laws by creating a mass of local elected officials who will together advocate for the ultimate goal: a comprehensive anti-preemptive statewide smoke-free law that covers all workers.¹¹ ■

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Contributors

E.J. Hahn originated the letter and took the lead on writing. N.L. York added citations and edited the letter. M.K. Rayens reviewed the design and analysis and edited the letter.

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BERMAN ET AL. RESPOND

We certainly agree with Hahn et al. that the ultimate goal is for residents of the Appalachian region to be protected by comprehensive, anti-preemptive statewide smoke-free laws, but we evidently disagree about the best strategy to reach that goal.¹

Although we do not intend to downplay the determined efforts and tremendous accomplishments of local advocates in parts of Appalachia, our study found that years of local advocacy for smoke-free laws have produced only modest results. Moreover, the communities that have successfully passed comprehensive smoke-free laws have tended to be those with relatively high socioeconomic profiles, likely further exacerbating the health disparities that already exist within the region.

We believe that all residents of the Appalachian region deserve protection from breathing toxic environmental tobacco smoke, and a community-by-community approach simply will not move the process along quickly enough. Hahn et al.'s own research has found that there is strong public support for smoke-free laws in the Appalachian region, and the recent passage of a strong smoke-free law in North Carolina—combined with encouraging progress toward a smoke-free law in Virginia—suggests that statewide success is possible even in historically tobacco-growing regions.

We urge a strategy that will enlist the support of local leaders as part of a larger effort to pass and implement comprehensive statewide smoke-free laws. ■

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M. Berman drafted the letter. A.K. Ferketich worked with M. Berman on the content. A. Liber, D. Nealy, M. Pennell, and J. Hammer all read the letter, provided edits, and agreed with the content.

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LOCAL SMOKE-FREE ORDINANCES ARE PASSING IN TOBACCO-GROWING STATES

Ferketich et al. studied demographic factors associated with the passage of clean indoor air ordinances in Appalachian communities.¹ Based on reported lack of progress at the local level despite strong public support for clean indoor air laws, they recommended that efforts be focused on the state level instead. This conclusion goes beyond the data that they present and does not consider the power of the tobacco industry in state-level politics.^{2–6} Additionally, recent experience in South Carolina,⁷ a state Ferketich et al. included in their research, shows that strong progress on local clean indoor air ordinances is possible even in an Appalachian, tobacco-growing state.

South Carolina's weak state clean indoor air ordinances passed in 1996 with an assumed preemption clause pushed by cigarette manufacturer lobbyists and hospitality industry allies that halted clean indoor ordinance progress for a decade. However, between May 2006 and January 2008, local advocates, supported by national tobacco control technical assistance and funding, challenged this presumed preemption by passing clean indoor air ordinances in 12 localities, two of which were sued under claims that state preemption did not allow local clean air ordinances. In March 2008, the state Supreme Court ruled that local clean indoor air ordinances were not preempted; since then, advocates have passed 21 more local clean indoor air ordinances. The passage of these local clean indoor air ordinances as of May 2010 has been recognized as the highest number of strong local ordinances passed in any US state for two years in a row.⁸